

Uldaho Law

Digital Commons @ Uldaho Law

Idaho Supreme Court Records & Briefs, All

Idaho Supreme Court Records & Briefs

2-18-2020

Kelly v. TRC Fabrication LLC Clerk's Record v. 2 Dckt. 47653

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"Kelly v. TRC Fabrication LLC Clerk's Record v. 2 Dckt. 47653" (2020). *Idaho Supreme Court Records & Briefs, All*. 8145.

https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/8145

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs, All by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact annablaine@uidaho.edu.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BONNEVILLE

DALE KELLY and NANCY KELLY,
Husband and Wife,

Plaintiffs,

vs.

TRC FABRICATION, LLC, an Idaho Limited
Liability Company,

Defendant.

Case No.: CV10-18-7400

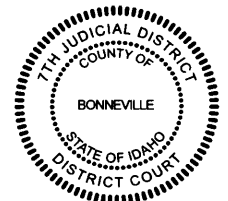
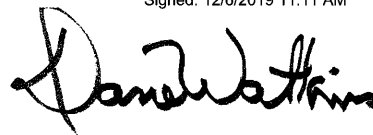
JUDGMENT FOR DISMISSAL

JUDGMENT IS ENTERED AS FOLLOWS:

1. Defendant TRC FABRICATION, LLC, is hereby awarded a Judgment of Dismissal of the DALE KELLY and NANCY KELLY claims against TRC FABRICATION, LLC.
2. All Plaintiffs' claims in the above captioned matter are dismissed with prejudice in their entirety as to the Defendant TRC FABRICATION, LLC.

DATED _____.

Signed: 12/6/2019 11:11 AM



HONORABLE DANE H. WATKINS

CERTIFICATE OF SERVICE

Signed: 12/12/2019 02:32 PM

I HEREBY CERTIFY that on this _____ day of December, 2019, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

John A. Bailey, Jr., ISB No. 2619
HAWLEY TROXELL ENNIS & HAWLEY LLP
412 West Center Street, Suite 2000
P.O. Box 100
Pocatello, Idaho 83204

- U.S. Mail, Postage Prepaid
- Hand Delivered
- iCourt
- E-mail: jbailey@hawleytroxell.com
- Fax: 208.233.2001

Brent O. Roche
Rachel A. Miller
Racine Olson, PLLP
P.O. Box 1391
Pocatello, Idaho 83204

- U.S. Mail, Postage Prepaid
- Hand Delivered
- iCourt
- E-mail: bor@racinelaw.net
- Fax: 208.232.6109



CLERK OF THE COURT

Brent O. Roche (ISB#2627)
Rachel A. Miller (ISB#8991)
RACINE OLSON, PLLP
P. O. Box 1391
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101
Fax: (208) 232-6109
Brent@racineolson.com
Rachel@racineolson.com

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BONNEVILLE

DALE KELLY and NANCY KELLY,
Husband and Wife,

 Plaintiffs/Appellants,

v.

TRC FABRICATION, LLC,
an Idaho Limited Liability Co.

 Defendant/Respondent.

Case No. CV10-18-7400

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, TRC FABRICATION, LLC, AND ITS
ATTORNEY, JOHN A. BAILEY, JR., AND THE CLERK OF THE ABOVE
ENTITLED COURT

NOTICE IS HEREBY GIVEN that:

1. The above-named Appellants, Dale Kelly and Nancy Kelly, appeal against the
above-named Respondent to the Idaho Supreme Court from the Judgment for Dismissal entered
in the above-entitled action on the 12th day of December, 2019, in the above-entitled action, the
Honorable Dane H. Watkins, District Court, presiding. A copy of the Judgment being appealed
is attached to this notice.

2. The Plaintiffs/Appellants have a right to appeal to the Idaho Supreme Court, and the judgment described in Paragraph 1 above is appealable pursuant to Rule 11(a)(1), I.A.R.

3. Preliminary Statement of Issues on appeal:

(a) Did the District Court err in granting Defendant TRC Fabrication, LLC's Motion for Summary Judgment?

4. An order has not been entered sealing any portion of the record.

5. Plaintiffs/Appellants request a reporter's transcript of the hearing held on November 13, 2019 on Defendant's Motion for Summary Judgment.

6. The Appellants request the following documents be included in the clerk's record, in addition to those automatically included under Rule 28, I.A.R.:

(a) Defendant TRC Fabrication, LLC's Motion for Summary Judgment filed 10/16/19;

(b) Amended Affidavit of John A. Bailey, Jr., filed 10/18/19;

(c) Affidavit of Brent O. Roche filed 10/30/19, and

(d) Memorandum Decision and Order Re: Motion For Summary Judgment filed 12/3/19.

7. I certify:

(a) That a copy of this Notice of Appeal has been served on the reporter;

(b) That the reporter of the District Court has been paid the estimated fee for preparation of the requested transcript;

(c) That the estimated fee for preparation of the clerk's record has been paid;

(d) That the appellate filing fee has been paid; and

(e) That service has been made upon all parties required to be served pursuant to Rule 20, I.A.R.

DATED this 17 day of December, 2019.

RACINE OLSON, PLLP

By: 
BRENT O. ROCHE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17 day of December, 2019, I served a true and correct copy of the above and foregoing document to the following person(s) as follows:

| | | |
|------------------------------------|-------------------------------------|--|
| John A. Bailey, Jr. | <input type="checkbox"/> | U. S. Mail, Postage Prepaid |
| Austin T. Strobel | <input type="checkbox"/> | Hand Delivery |
| HAWLEY TROXELL ENNIS & | <input type="checkbox"/> | Overnight Mail |
| HAWLEY LLP | <input type="checkbox"/> | Facsimile - (208) 232-0150 |
| 412 West Center Street, Suite 2000 | <input type="checkbox"/> | Email – jbailey@hawleytroxell.com |
| P.O. Box 100 | | Email – astrobel@hawleytroxell.com |
| Pocatello, ID 83204 | <input checked="" type="checkbox"/> | iCourt |


BRENT O. ROCHE

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BONNEVILLE

DALE KELLY and NANCY KELLY,
Husband and Wife,

Plaintiffs,

vs.

TRC FABRICATION, LLC, an Idaho Limited
Liability Company,

Defendant.

Case No.: CV10-18-7400

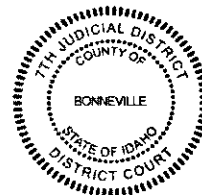
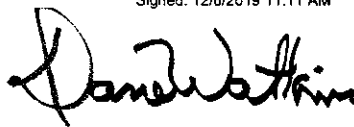
JUDGMENT FOR DISMISSAL

JUDGMENT IS ENTERED AS FOLLOWS:

1. Defendant TRC FABRICATION, LLC, is hereby awarded a Judgment of Dismissal of the DALE KELLY and NANCY KELLY claims against TRC FABRICATION, LLC.
2. All Plaintiffs' claims in the above captioned matter are dismissed with prejudice in their entirety as to the Defendant TRC FABRICATION, LLC.

DATED _____.

Signed: 12/6/2019 11:11 AM



HONORABLE DANE H. WATKINS

CERTIFICATE OF SERVICE

Signed: 12/12/2019 02:32 PM

I HEREBY CERTIFY that on this _____ day of December, 2019, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

John A. Bailey, Jr., ISB No. 2619
HAWLEY TROXELL ENNIS & HAWLEY LLP
412 West Center Street, Suite 2000
P.O. Box 100
Pocatello, Idaho 83204

- U.S. Mail, Postage Prepaid
- Hand Delivered
- iCourt
- E-mail: jbailey@hawleytroxell.com
- Fax: 208.233.2001

Brent O. Roche
Rachel A. Miller
Racine Olson, PLLP
P.O. Box 1391
Pocatello, Idaho 83204

- U.S. Mail, Postage Prepaid
- Hand Delivered
- iCourt
- E-mail: bor@racinelaw.net
- Fax: 208.232.6109



CLERK OF THE COURT

John A. Bailey, Jr., ISB No. 2619
HAWLEY TROXELL ENNIS & HAWLEY LLP
412 West Center Street, Suite 2000
P.O. Box 100
Pocatello, Idaho 83204
Telephone: (208) 233-2001
Facsimile: (208) 232-0150
Email: jbailey@hawleytroxell.com

Attorneys for Defendant/Respondent TRC Fabrication, LLC

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BONNEVILLE

DALE KELLY and NANCY KELLY,
Husband and Wife,

Plaintiffs/Appellants,

vs.

TRC FABRICATION, LLC, an Idaho Limited
Liability Company,

Defendant/Respondent.

Case No.: CV10-18-7400

**DEFENDANT'S/RESPONDENT'S
REQUEST FOR ADDITIONAL
CLERK'S RECORD ON APPEAL**

**TO: THE ABOVE NAMED PLAINTIFFS/APPELLANTS AND THE PARTY'S
ATTORNEY, AND CLERK OF THE ABOVE ENTITLED SEVENTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF
BONNEVILLE**

NOTICE IS HEREBY GIVEN, that the Respondent, TRC FABRICATION, LLC, in the
above entitled proceeding hereby requests pursuant to Rule 19(c) of the Idaho Appellate Rules
(I.A.R.), the inclusion of the following material in the clerk's record in addition to that required
to be included by the I.A.R. and requested in the Notice of Appeal:

1. *Memorandum in Support of Defendant TRC Fabrication, LLC's Motion for
Summary Judgment* filed on October 16, 2019;

2. All the attachments included with the *Affidavit of John A. Bailey, Jr. in Support of Defendant TRC Fabrication, LLC's Motion for Summary Judgment* filed on October 16, 2019;
3. *Reply Memorandum in Support of Defendant TRC Fabrication, LLC's Motion for Summary Judgment* filed on November 14, 2019;
4. *Supplemental Affidavit of John A. Bailey, Jr. in Support of Defendant TRC Fabrication, LLC's Motion for Summary Judgment*, along with all attachments thereto, filed on November 14, 2019;

I certify that a copy of this request was served upon the clerk of the district court and upon all parties required to be served pursuant to Rule 20 of the I.A.R.

DATED this ____ day of December, 2019.

HAWLEY TROXELL ENNIS & HAWLEY LLP

/s/ John A. Bailey, Jr.
JOHN A. BAILEY JR.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of December, 2019, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Brent O. Roche
Rachel A. Miller
Racine Olson, PLLP
P.O. Box 1391
Pocatello, Idaho 83204

- U.S. Mail, Postage Prepaid
- Hand Delivered
- iCourt
- E-mail: bor@racinelaw.net
- Fax: 208.232.6109

/s/ John A. Bailey Jr.
JOHN A. BAILEY, JR.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

Dale Kelly, Nancy Kelly
Plaintiff,
vs.
TRC Fabrication, LLC
Defendant.

Supreme Court No. 47653-2019
District Court No. CV10-18-7400
Clerk's Certificate of Service

I, Laura Spoklie, Deputy Clerk of the District Court of the Seventh Judicial District, of the State of Idaho, in and for the County of Bonneville, do hereby certify that the above and foregoing Record in the above entitled cause was electronically compiled at my direction, and is a true, full and correct Record of the pleadings and documents as requested by the parties.

I further certify that I have caused to be served the Clerk's Record and Reporter's Transcript (if requested), along with copies of all Exhibits offered or admitted; No Exhibits submitted; Pre-sentence Investigation, or Other Confidential Documents; or Confidential Exhibits (if applicable) to each of the Attorneys of Record or Parties in this case as follows:

CERTIFICATE OF SERVICE

I certify that on February 03, 2020, I served a copy of the attached to:

Brent O. Roche
Rachel A. Miller
John Albert Bailey, Jr

brent@racineolson.com
rachel@racineolson.com
jbailey@hawleytroxell.com

[X] By E-mail
[X] By E-mail
[X] By E-mail

Penny Manning
Clerk of the Court

Dated: 2/18/2020

By: Laura Spoklie
Deputy Clerk

